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S.B. CIVIL WRIT PETITION NO.7664/2007.

Mool Chand Suthar
Vs.
The State of Rajasthan & Ors.

Date of Order :: 27th November 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Nitin Trivedi, for the petitioner.

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BY THE COURT:

The petitioner working as Patwari with the Colonisation Department having been transferred from Colonisation Tehsil, Kolayat No.2 to Colonisation Tehsil, Mohangarh No.1 (Jaisalmer) by the order dated 03.11.2007 (Annex.2) seeks to question his transfer order essentially on the grounds that the petitioner has been placed at the present place of posting only by the order dated 31.07.2007 and his transfer within about three months to another place clearly amounts to a case of frequent transfers; that the petitioner has been transferred without any administrative exigency and no administrative exigency is spelt out in the order impugned (Annex.2); and that the transfer order has been issued after the State Government imposed a ban on transfer of the employees like the petitioner w.e.f. 01.11.2007.

Learned counsel for the petitioner having urged on the grounds aforesaid was posed a question about availability of the alternative remedy of filing appeal before the Rajasthan Civil Services Appellate Tribunal to which learned counsel responded with the submissions that of course the remedy of appeal is available but the Bench of the Tribunal supposed to hear the matters of the present nature being not functioning,

such remedy cannot be said to be an efficacious one in the present set of circumstances and, therefore, the petitioner is entitled to maintain a writ petition before this Court.

Having heard learned counsel for the petitioner and having given a thoughtful consideration to the submissions made, this Court is clearly of opinion that for the grounds noted supra the petitioner could have filed an appeal before the Tribunal concerned and there appears no special reason or circumstance wherefor the matter be entertained directly in the writ jurisdiction of this Court. The submission about non-functioning of the Bench of the Tribunal is not convincing for the reason that the petitioner has not filed any such appeal before the Tribunal nor made a request to the Tribunal to take up the matter for consideration and without filing an appeal before the Tribunal concerned, the petitioner cannot assume that the matter would not be heard.

For being not inclined to entertain the matter in extraordinary writ jurisdiction, this Court would not make any comment on the merits of the grounds sought to be urged by the petitioner leaving it open for him to take resort to the alternative remedies in accordance with law.

Exercise of writ jurisdiction in this matter is refused; and the petition is rejected.

(DINESH MAHESHWARI), J.

Mohan/